

**CHIROPRACTIC EXAMINING BOARD
MINUTES
June 23, 2005**

PRESENT: Steven Conway, Char Glocke, Susan Feith, Wendy Henrichs,
James Weber, Steven Silverman

EXCUSED: None

STAFF PRESENT: Kimberly Nania, Division Administrator Board Services; Dennis
Schuh; Legal Counsel, Gina York, Bureau Assistant, and Division of
Enforcement and other staff

GUESTS: Jeremy Levin, WI Medical Society, Jason E. Johns, WPTA;
Shirley Greenwald, Self; James Greenwald, Self; and 30 Attendees
from the Cutting Edge Crusaders

CALL TO ORDER

James Weber, Chair, called the meeting to order at 8:05 a.m. A quorum of six members was present.

APPROVAL OF AGENDA

Additions to the Agenda:

- Closed Session: After Monitoring Received After the Mailing of the Agenda – Randal Arnold, D.C.

MOTION: Steven Conway moved, seconded by Steven Silverman, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF APRIL 28, 2005

Amendments to the Minutes:

- Under Budget Report – In motion change “ is congruent to” to “congruency of”
- Presentation of Proposed Stipulations – Add additional information regarding discussion between Susan Feith and Jack Zwieg.

MOTION: Wendy Henrichs moved, seconded by Susan Feith, to approve the April 28, 2005 minutes as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF MAY 19, 2005 TELECONFERENCE

Amendments to the Minutes:

- Under Deliberation of Proposed Stipulations - Add the failed motion and Legal Counsel's advisement regarding the allowance of additional discussion on other issues surrounding stipulation.

MOTION: Wendy Henrichs moved, seconded by Susan Feith, to approve the May 19, 2005 teleconference minutes as amended. Motion carried unanimously.

PRESENTATION OF PROPOSED STIPULATIONS

Michael Berndt, DOE Supervisor, presented the proposed stipulation regarding Donald M. Bergman, D.C. to the Board at today's meeting.

PRESENTATION OF PROPOSED STIPULATIONS THAT MAY BE SIGNED AFTER THE MAILING OF AGENDA

None.

APPROVAL OF 2006 MEETING DATES

The Board reviewed the list of meeting dates for 2006 at today's meeting and requested a revision by changing various dates. Kimberly Nania, Division Administrator of Board Services, consulted with Roxanne Peterson who schedules the annual board meetings for the Division. Ms. Peterson made the requested adjustments at today's meeting. Once the Board received these revisions, they took the following action.

MOTION: Steven Conway moved, seconded by Wendy Henrichs, to approve the 2006 meeting dates as amended at today's meeting. Motion carried unanimously.

PRESENTATION FROM CUTTING EDGE CRUSADERS, REQUEST FOR DISCIPLINARY GUIDELINES PERTAINING TO INNOVATIVE CHIROPRACTORS WITH PRESENTERS SYNTHIA MANISCALCO, JUDY MEINEN, AND MAGGIE MEINEN

Synthia Maniscalco and Judy Meinen, representing the Cutting Edge Crusaders, presented information to the Board regarding various concerns, options, and opinions viewed as innovative chiropractic techniques for consideration by the Board. The Board welcomed their input and information presented at today's meeting.

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ADMINISTRATIVE REPORT

Kimberly Nania, Division Administrator of Board Services, informed the Board that the Department's Executive Assistant, Christopher Klein, is leaving and will be going to the Department of Transportation. Dr. Nania stated that a new DRL Executive Assistant will be appointed by the Governor and Board's will be notified once this has occurred. The building renovations are progressing as scheduled with completion expected by September 1, 2005.

REVIEW ISSUE OF ONLINE REGULATORY DIGEST

Jeff Scanlan, Director of Health Service Professions, prepared a draft of the Regulatory Digest for the Board to review at today's meeting. As stated at the last meeting this publication will be done twice a year and posted on the DRL Website. Kimberly Nania asked all Board members to get any revisions to this publication to Jeff Scanlan by June 27, 2005.

SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES, ADMINISTRATIVE RULES AND PRESS RELEASES DENNIS SCHUH

Dennis Schuh, Legal Counsel, reviewed the summary reports with the Board at today's meeting and was available to them for follow up questions.

STATUS REPORT ON RULES AND STATUTES – DENNIS SCHUH

Dennis Schuh, Legal Counsel, provided an update regarding the status of rules and statutes. He reviewed the Clearinghouse Rules 02-020 and 01-118 with the Board at today's meeting.

CLEARINGHOUSE RULE 02-020 CE COURSES – CHIROPRACTIC PHILOSOPHY

The Board reviewed and discussed at length rule 02-020 at during today's meeting and took the following action(s).

MOTION: Char Glocke moved, seconded by Susan Feith, to continue with the rulemaking process for rule 02-020 regarding CE Courses on Chiropractic Philosophy.

MOTION: Char Glocke moved, seconded by Susan Feith, to withdraw the previous motion regarding rule 02-020.

MOTION: Susan Feith moved, seconded by Steven Conway, to table rule 02-020 to the next meeting. Motion carried unanimously.

The Board requested that Jeff Scanlan find out what other states are doing and the number of CE credits being granted by each state. He should also contact post-graduate schools regarding philosophy CE courses and obtain copies of materials. Once this information is received, Mr. Scanlan will share the information gathered with Dennis Schuh, Legal Counsel, and they will provide these findings to the Board at their next meeting.

CLEARINGHOUSE RULE 01-118 SCOPE & PRACTICE DEFINITION

The Board reviewed and discussed rule 01-118 with Dennis Schuh, Legal Counsel, at today's meeting and took the following action.

MOTION: Steven Conway moved, seconded by Char Glocke, to table rule 01-118 to the next meeting. Motion carried unanimously.

Board requested more information and what the impact would be on the public. Dennis Schuh recommended that the Board review the information and comments from the public hearing held in November 2001. This topic will be included on the next agenda for further discussion and consideration.

DUTY TO INFORM VERSES DUTY TO REFER WITH FINAL DECISION

The Board had a lengthy and informative discussion regarding the issue of duty to inform verses duty to refer at today's meeting. After consulting with Dennis Schuh, Legal Counsel, the Board took the following action.

MOTION: Steven Conway moved, seconded by Char Glocke, to remain with the duty to inform. Opposed-Wendy Henrichs. Motion carried.

PRECEPTOR APPROVAL FOR REQUESTS RECEIVED AFTER THE PRINTING OF THE AGENDA

There were no preceptors submitted by Julie Reimann, Credentialing, for the Board's approval at today's meeting.

INTERNET CE

The Board had a lengthy discussion regarding internet continuing education and what steps they wish to take regarding this issue. The Board will need to look at what would be considered acceptable, determine the number of credits allowed for distance learning, etc. The Board decided to pursue proposed language for CE requirements for On-line courses and took the following action.

MOTION: Steven Conway moved, seconded by Steven Silverman, to move ahead with distance learning and proposed language for CE requirements. Motion carried unanimously.

The first draft language to Chiro Chapter 5 was reviewed with the Board's Legal Counsel, Dennis Schuh, at today's meeting. Attorney Schuh will make revisions and additions as indicated and provide another draft for review at the next Board meeting.

DISCUSSION REGARDING DISTRIBUTION OF COMPLAINTS TO OTHER JURISDICTIONS

Susan Feith brought forth concerns she had regarding the distribution of complaints to other jurisdictions at today's meeting and identified the Bevier Sleight case as a major concern for her. Ms. Feith reviewed the information she shared at the last meeting regarding this case and issues she raised at that time. Kimberly Nania, Division Administrator of Board Services, shared with the Board that disciplinary actions are reported to HIPPA who records these actions on their national database. Dr. Nania verified that the status of Dr. Sleight's discipline is accurately reflected on the HIPPA database system. Ms. Feith wanted to take additional measures and made the following motion.

MOTION: Susan Feith moved, no second, to refer the Dr. Sleight matters to the Wood County District Attorney and to other jurisdictions in Maine and Massachusetts. Motion failed due to lack of a second.

INFORMATIONAL ITEMS

None.

CORRESPONDENCE AND PHONE INQUIRIES BY LEGAL COUNSEL PRACTICE QUESTION: NAMING OF A CLINIC

Dennis Schuh, Legal Counsel, discussed with Board a practice question regarding the naming of a clinic. After review of the information provided there was no action required and Attorney Schuh will respond on behalf of the Board.

CONSULTING WITH LEGAL COUNSEL

The Board consulted with Dennis Schuh, Legal Counsel, throughout today's meeting as needed.

VISITOR COMMENTS

Noted.

CONVENE TO CLOSED SESSION

MOTION: Steven Conway moved, seconded by Wendy Henrichs, to adjourn to closed session pursuant to Wisconsin state statutes 19.85(1)(a)(b)(f) and (g) to consult with Legal Counsel regarding the Suit by WCA, deliberate on proposed stipulations, deliberate on proposed administrative warnings, deliberate on monitoring issues, application review, monitoring report and DOE case status reports. Motion carried by roll call vote: Steven Conway-yes; Susan Feith-yes; Wendy Henrichs-yes; Char Glocke-yes; Steven Silverman-yes; and James Weber-yes.

Open Session recessed at 10:30 a.m.

RECONVENE TO OPEN SESSION

MOTION: Wendy Henrichs moved, seconded by Steven Silverman, to reconvene into open session at 2:08 p.m. Motion carried unanimously.

VOTE ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION

MONITORING

APPEARANCES BEFORE THE BOARD

JOHN ADERHOLDT DC

MOTION: Steven Conway moved, seconded by Wendy Henrichs, to grant full reinstatement of licensure to John Aderholdt, D.C. Motion carried unanimously.

HAROLD DYKEMA DC

MOTION: Steven Conway moved, seconded by Susan Feith, to grant a limited license to Harold Dykema, D.C. with the limitations that he not practice NET, no laser in conjunction with acupuncture, no sensometer, and to obtain a mentor, approved by the Board, who will provide quarterly reports. James Weber did not participate during the appearance, deliberation, or voting at today's meeting. Abstained- James Weber. Motion carried.

REQUESTS FOR REINSTATEMENT OF LICENSURE

RICHARD HORAITIS DC

MOTION: Steven Conway moved, seconded by Steven Silverman, to deny the request for full reinstatement of licensure regarding Richard Horaitis, D.C.
Reason for Denial: That respondent has not submitted evidence satisfactory to the Board that the circumstances giving rise to the limitations, no longer exists. Motion carried unanimously.

SCOTT RISE DC

MOTION: Susan Feith moved, seconded by Wendy Henrichs, to remand this matter to the Division of Enforcement for the scheduling of a hearing on this issue for appropriate disposition in the matter regarding Scott Rise, D.C. and to review exhibit A. Motion carried unanimously.

**DELIBERATION OF MONITORING ISSUES THAT MAY BE RECEIVED
AFTER THE MAILING OF AGENDA**

RANDAL ARNOLD, DC

MOTION: Wendy Henrichs moved, seconded by Steven Silverman, to grant a modification to the Board order in the matter of Randal Arnold, D.C. to remove the requirement for psychotherapy, with no other additional changes in modifications and for him to obtain a new mentor, approved by the Board, to review the remaining limitations. Motion carried unanimously.

STIPULATIONS

DONALD M. BERGMAN

MOTION: Wendy Henrichs moved, seconded by Steven Conway, to adopt the Findings of Fact, Conclusions of Law, Order, and Stipulation in the matter of Donald M. Bergman, D.C. Motion carried unanimously.

**DELIBERATION OF PROPOSED STIPULATIONS THAT MAY BE SIGNED
AFTER THE MAILING OF THE AGENDA**

None.

**DELIBERATION OF PROPOSED ADMINISTRATIVE WARNINGS RECEIVED
AFTER THE MAILING OF AGENDA**

None.

DELIBERATION OF PROPOSED FINAL DECISIONS & ORDERS

GREGORY R. DANIELS

MOTION: Wendy Henrichs moved, seconded by Susan Feith, to request a variance be written by legal counsel in the matter of Gregory R. Daniels, D.C. Motion carried unanimously.

**DELIBERATION OF PROPOSED FINAL DECISIONS & ORDERS THAT MAY BE
SIGNED AFTER MAILING OF THE AGENDA**

None.

DIVISION OF ENFORCEMENT CASE STATUS REPORT

MOTION: Steven Conway moved, seconded by Wendy Henrichs, to close case **03 CHI 081** for no jurisdiction. Motion carried unanimously.

MOTION: Wendy Henrichs moved, seconded by Steven Conway, to close case **04 CHI 029** for no violation. Motion carried unanimously.

MOTION: Wendy Henrichs moved, seconded by Steven Conway, to close case **04 CHI 059** for no violation. Motion carried unanimously.

MOTION: Steven Conway moved, seconded by Wendy Henrichs, to close case **04 CHI 045** for insufficient evidence. Motion carried unanimously.

MOTION: Wendy Henrichs moved, seconded by Steven Conway, to close case **02 CHI 005** for insufficient evidence. Motion carried unanimously.

MOTION: Wendy Henrichs moved, seconded by Susan Feith, to close case **04 CHI 032** for insufficient evidence. Motion carried unanimously.

MOTION: Wendy Henrichs moved, seconded by Steven Silverman, to close case **05 CHI 006** for no violation. Motion carried unanimously.

MOTION: Susan Feith moved, seconded by Steven Conway, to close case **02 CHI 064** for insufficient evidence. Motion carried unanimously.

APPLICATION REVIEWS

There were no applications to review at today's meeting.

DISCUSSION AND POSSIBLE ACTION ON LETTER FROM WCA REGARDING PROFESSIONAL CONDUCT

MOTION: Steven Silverman moved, seconded by Steven Conway, to decline WCA's offer and recommend that WCA utilize closed disciplinary actions for preparing case studies to assist members in Ethics and Boundary issues. Motion carried unanimously.

OTHER BOARD BUSINESS

There was no other Board business to be addressed at today's meeting.

ADJOURNMENT

MOTION: Wendy Henrichs moved, seconded by Steven Conway, to adjourn the meeting at 2:20 p.m. Motion carried unanimously.